

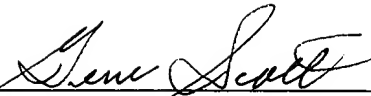
REMARKS/ARGUMENTS

1. Applicant takes notice that the drawings submitted with the above application are not objected to.
2. Claims 1-8 are pending in this application; claim 2 has been canceled, and claims 1 and 3-8 currently are rejected.
3. Claim 5 is objected to for formalities. Correction has been made in this amendment to overcome the objection.
4. Claim 1 is rejected under 35 USC §103(a) as unpatentable over Fresquez in view of Forbath '043. However, the above amendment traverses this rejection. As shown in Figs. 1-3, the shoulders 50 and 50' clearly provide an abrupt change in width of the case 10 with the upper portion of the case significantly wider than the lower portion of the case, the latter fitting within a hand. It is your applicant's experience that during childbirth labor, a person finds it extremely difficult to concentrate on surroundings, objects, procedures and so on. Earlier versions of the BirthWatch™ device, wherein the case did not have the features of claim 1, have been inadvertently held upside-down, backwards and in other non-functional orientations during labor. It has been also found that the case configuration shown in the figures and described in the specification and claims, has resulted in a dramatic improvement in the usability of the invention. Therefore, the "abrupt" shoulders of the instant invention provide an important ability to orient and position the case correctly within one hand. This is not readily possible with the Fresquez et al device because no abrupt shoulders on the sides of the case provide guidance for correct gripping. This is even more important since the Fresquez et al device does not have an audio port (speaker) on the front face of the case. The placement of such a port, particularly on the upper portion of the case cooperates with the shoulders to assure that the port does not become covered by the hand, which holds the device. This can be critical to being able to hear the sounds emitted by the invention, which, of course, is crucial to its operation. A woman in labor usually is crying, screaming, and breathing very heavily, which tends to lessen her ability to hear unrelated or background sounds. The frontal and uncovered orientation of the sound port, under these conditions, becomes even more critical. Further to such benefit is the continuously convergent front and rear surfaces of the instant case, whereby Fresquez et al teaches a minor shape change (not continuous from top to bottom) that cannot be considered significant in regard to tactile sensing within the hand. Various case sizes and shapes have been tested since the publication in 1985, of the Forbath patent, and cases with shapes such as Fresquez et al have been found to be ineffective for purposes of correctly orienting the device within a hand during childbirth labor.
5. Claims 2-8 are rejected under 35 USC §103(a) as unpatentable over Forbath '043 and obvious extensions thereof. However, your applicant submits that claims 2-8 distinguish in an important and non-obvious manner. For instance, defining and use of early labor, active labor, transition labor and pushing labor has been found, in trials, to provide significant advantage and benefit to users of the device because such divisions of childbirth teach the user to recognize, herself, in a way that was not previously easily attained, the stage of labor that is currently active. This enables the user to be better prepared and lessens stress, which generally results in an easier, and

less painful, delivery. Although, the circuitry is easily adapted for more or fewer similar timing cycles, it is the specific method of use of the cycles, and their relationships to actual childbirth events, that is the basis for the novelty and non-obviousness of the instant method. The use of an alert to realize that medical personnel should be summoned, has been shown in trials to result in greatly improved use of the invention due to lack of astute awareness of the mother during labor. Such an alert is not obvious in that it has not been known in the prior art although has now been demonstrated to provide significant advantage in preventing the common medical emergencies that frequently occur due to relatively low awareness of the mother during childbirth, and the common practice by medical personnel to be called away at times during preliminary stages of childbirth. These claims have now been amended to include the step of, "storing a set of expected sequences," as might be given by medical personnel to enable user awareness and to act as a point for summoning medical help. For instance, an OBGYN normally will tell a particular patient, "call me when your contractions are so many minutes apart. The present invention has the capacity to install such request for alarm, see page 4, line 25, or could be used by the practicing mother-to-be as part of her practice. This step is not taught in the prior art and is considered to provide great advantage to the user. This step has now been incorporated into the rejected claims and places them into condition for allowance.

6. The present application was originally filed claiming the benefit of an earlier provisional application. This provisional application teaches in Figs. 14, 18, and 19 the use of a logic flow diagram enabling the alert function, but only shows a likely computational logic flow for the selection process. Fig. 17 further shows, in the Comments column, the multiple selection steps/options available for inputting the medical staff instructions. Your applicant now refers to this to demonstrate the complexity of such an alert function. This shows that it would not have been a matter of obviousness to implement such an alert function in the provisional or the present application, i.e., a matter of routine steps. See, in the provisional application, Figs. 14, 17, 18 and 19 attached to this response for reference purposes only.
7. It is drawn to the examiner's attention that the present invention is based on the provisional application and incorporates such by reference. In the provisional application, see Figs. 14, 17, 18 and 19 in particular, it can be seen that the execution of the present enablement is complex, and the level of complexity is significant. Therefore, it is submitted that the present invention clearly distinguishes over the prior art by its level of complexity.
8. Therefore, for the reasons given in the above paragraphs it is submitted that claims 1-8 are in condition for allowance, claims 3 and 4 for at least the same reasons as for claim 2 from which they depend.
9. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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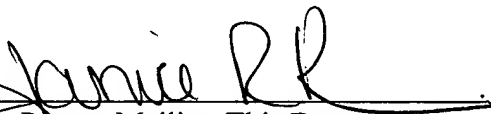
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Attachment: Version with markings to depict the changes made in this response.

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